

STATE FARM INSURANCE SETTLEMENT - SALVAGE (TOTAL LOSS) TITLES

The State Attorneys General of approximately 48 states, including Alabama, have entered into an Assurance of Voluntary Compliance with State Farm Insurance regarding noncompliance with the states' motor vehicle title laws. Although this Assurance of Voluntary Compliance released the State's consumer protection claims, the agreement did not release any claims an individual person might have against State Farm regarding the underlying facts.

Insurance companies are required to declare certain wrecked or damaged vehicles as a "total loss" if the damage is extensive enough to meet a predetermined limit. When an insurance company makes a "total loss" declaration, this generally requires that the **motor vehicle title be surrendered** to the insurance company. The insurance company submits the title to the State which in turn, reissues the title to the insurance company with a "salvage" or "junk" designation commonly referred to as a "brand."

The Alabama Department of Revenue recently learned that State Farm could not confirm whether "branded" titles were obtained for vehicles now located in Alabama as may have been required.

As a result, there have been vehicles repaired, resold, and passed along to new owners unaware that the vehicles acquired had any extensive prior damage that should have been noted in the vehicles' title histories. Further, it is possible that automobile dealerships bought and sold these vehicles as "used autos," unaware of the extent of the prior damage that would have caused the vehicles to be a "total loss" by a previous owner.

According to Alabama law, Section 32-8-87(d), *Code of Alabama 1975*:

"[A] total loss shall occur when an insurance company or any other person pays or makes other monetary settlement to a person when a vehicle is damaged and the damage to the vehicle is greater than or equal to 75 percent of the fair retail value of the vehicle prior to damage as set forth in a current edition of a nationally recognized compilation of retail values A vehicle that has sustained minor damage as a result of theft or vandalism shall not be considered a total loss."

Various states' laws have different definitions of "total loss." When determining which states' laws define a "total loss" vehicle, the state in which the total loss occurred is the controlling state. Alabama honors other states' laws and accepts the total loss designation by other states for branding vehicles brought into Alabama by owners moving to Alabama. Additionally, Alabama accepts the total loss designation of another state for a vehicle brought into Alabama and purchased by an Alabama resident.

Alabama motor vehicle title laws set forth the possible "brands"—"salvage" or "junk." A total loss vehicle is branded as a "salvage" vehicle and the title is issued as a salvage title. A salvaged vehicle with a salvage title can be rebuilt, and upon a proper inspection can be re-branded as a "rebuilt" vehicle with a rebuilt title.

Alabama law also provides for a “junk” brand wherein the exclusive use is to strip the vehicle for parts only. The parts can then be sold and used in repairing other vehicles. **Vehicles with “junk” brands cannot be registered and a license plate cannot be issued for these vehicles.**

Alabama law is similar to most other states - **a vehicle with a salvage title (as a result of a total loss) cannot be driven on the highways of Alabama.** Further, **it cannot be re-registered**, and a license plate **cannot** be issued for the vehicle. In either case, the sale of the vehicle requires notice be given to a buyer that it is a salvage or rebuilt vehicle. This is also important for subsequent roadworthiness due to the potential liability of the seller to another consumer/owner that might be injured because of the condition of the vehicle in a subsequent accident.

According to Alabama law, only a “licensed” rebuilder may apply for an inspection of a rebuilt (previously salvaged - total loss) vehicle. The rebuilder must identify the parts and repairs so that the inspection can determine if there were any stolen parts used. Important records of the repairs are maintained for future use in an investigation. Obviously, the purpose of this requirement is so that vehicle thefts will not be facilitated by “chop shops” that steal vehicles and chop them up for parts to sell to unsuspecting consumers. Also, there is monitoring of the licensed rebuilders so that auto thieves cannot infiltrate the business of rebuilding vehicles.

In the case of the State Farm vehicles that are to be re-branded, it is unlikely that a subsequent owner of the vehicle will be able to obtain an inspection because the owner likely did not rebuild the vehicle. Thus, he/she cannot provide the parts receipts or swear under oath, as is required by law, as to what was repaired. It is an issue of potential liability as well if the vehicle should become involved in another accident at a later time. For this reason, licensed rebuilders are required to have “garage liability insurance” that is not readily available to an average consumer/vehicle owner.

The Department of Revenue needs additional information from State Farm about the specific vehicles to determine whether they should have been titled as “salvage.” However, it is likely that all, or substantially all, of the titles will be revoked and the vehicles will experience a significantly diminished value under existing laws. It will not be possible to use the re-branded vehicles on Alabama highways, nor can the owner sell the vehicle to another, except for the parts. Otherwise, the subsequent buyer would be likewise defrauded and the owner could be subject to liability for damages as well.

For additional information concerning **“State Farm Insurance Settlement – Salvage (Total Loss) Titles,”** contact Rust Consulting Inc. at the address provided below or by telephoning (877) 491-9339.

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